

DOCKET FILE COPY ORIGINAL

86-10  
**ORIGINAL**

**SULLIVAN & WORCESTER**

1025 CONNECTICUT AVENUE, N. W.

WASHINGTON, D. C. 20036

(202) 775-8190

TELECOPIER NO. 202-293-2275

IN BOSTON, MASSACHUSETTS  
ONE POST OFFICE SQUARE  
BOSTON, MASSACHUSETTS 02109  
(617) 338-2800  
TELECOPIER NO. 617-338-2880  
TWX: 710-321-1976

IN NEW YORK CITY  
767 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
(212) 486-8200  
TELECOPIER NO. 212-758-2151

**RECEIVED**

March 17, 1993

**MAR 17 1993**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554**

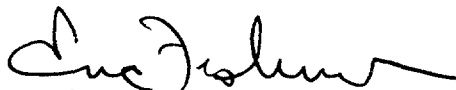
**Re: 800 Presubscription Rules for 800 Providers and  
Responsible Organizations; Emergency Petition for  
Declaratory Ruling or, in the Alternative,  
Rulemaking" of Allnet Communications Services, Inc.**

**Dear Ms. Search:**

On March 16, 1993, the undersigned counsel filed on behalf of The Long Distance Partnership, L.P. ("LDP") a limited Opposition to the "Emergency Petition for Declaratory Ruling or, in the Alternative, Rulemaking" of Allnet Communications Services, Inc. By inadvertent clerical error, on the signature page of LDP's there appears the name of another client of this firm, RCI Long Distance North of New England, d/b/a/ Long Distance North. By this letter, leave is sought to correct this error through the submission of the attached erratum. A copy of this letter and attachment is being served on all parties identified in the Certificate of Service.

Should any questions arise concerning this matter, please contact the undersigned directly.

Sincerely,



**Eric Fishman  
Counsel to  
The Long Distance Partnership, L.P.**

**Attachment**

No. of Copies rec'd  
List A B C D E

244

19

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**RECEIVED**

**MAR 17 1993**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
800 Presubscription Rules for ) RM-\_\_\_\_\_  
800 Providers and )  
Responsible Organizations )  
\_\_\_\_\_ )

**OPPOSITION TO EMERGENCY PETITION FOR  
DECLARATORY RULING OR, IN THE ALTERNATIVE, RULEMAKING**

In an "Emergency Petition for Declaratory Ruling or, in the Alternative, Rulemaking" filed February 17, 1993 ("Petition"), Allnet Communication Services, Inc. ("Allnet") proposes that the Commission adopt 800 service presubscription rules governing the conduct of Responsible Organizations ("RESPORGS") and 800 service providers pursuant to which (a) an 800 subscriber's existing 800 carrier or RESPORG must implement any carrier or RESPORG changes requested by the subscriber within two business days; (b) an 800 subscriber may initiate all such changes for its own 800 service, even if the subscriber purchases 800 service through a reseller; and (c) subscribers may complete one standard form, submitted to either its current or new 800 service provider or RESPORG, in order to implement carrier or RESPORG changes.

By its attorney and pursuant to the Commission's Public Notice, DA 93-214, released February 23, 1993, The Long Distance Partnership, L.P. ("LDP") hereby opposes Allnet's

Petition to the extent it excludes resellers and other non-facilities based service providers from its definition of "800 end using subscribers" authorized to request RESPORG and carrier routing changes. For the reasons set forth below, Allnet's proposed rule change is unlawfully discriminatory, anticompetitive and contrary to public policy.

Alternatively, LDP urges the Commission to include resellers and other non-facilities based providers of 800 service in any definition of "800 end using subscribers" it may adopt.

#### I. Background

LDP is an independent, nondominant interexchange carrier operating as a reseller. It offers a panoply of telecommunications services, including 800 services, both directly to end users and indirectly, to service bureaus and other resellers.

Like other nondominant carriers, LDP eagerly awaits the implementation of the data base system of 800 access in six weeks, and applauds the Commission's efforts to facilitate the introduction of 800 number portability. Through a combination of technological breakthroughs and bold, regulatory initiatives, 800 number subscribers will have the freedom to use any carrier (or more than one carrier) with any 800 number, and to change carriers without changing their 800 numbers. Customers will also have the ability to select among a menu vertical routing features or functions, including, inter alia, call validation, alternate POTS translation, and multiple carrier routing. These

developments can only serve to benefit the public interest by broadening customer choice, increasing network efficiencies, and stimulating competition.

In its Petition, Allnet argues that the benefits of the Commission's 800 service policies will not be achieved unless the Commission mandates presubscription rules analogous to those which it adopted for 1+ services. Among the specific rule changes it has proposed is a definition of "800 end using subscribers" which are entitled to request 800 service routing and carrier changes. Under Allnet's definition, such subscribers would be limited to:

...the entity who 1) through contractual or other legal relationship it can be definitively determined that such entity has the exclusive and absolute legal right to designate the physical point(s) of termination for all calls dialed using that 800 number and 2) who receives no compensation of any kind for the transmission, delivery, or management of calls originated using that number. If no entity satisfies both conditions of the prior provision, then the regulated common carrier whose network serves as the last exclusive physical point of connection(s) for all calls originated using an 800 number shall be treated by these Guidelines as the 800 end using subscriber for that 800 number.

Petition, p. 15. It is this restrictive definition to which LDP objects.

## **II. Allnet's Petition Should Be Rejected.**

While LDP generally shares Allnet's concerns regarding potential delays in the servicing of 800 number conversion requests, LDP respectfully submits that the resolution of these matters should, in the first instance, be addressed

without regulatory intervention, by the Carrier Liaison Committee's 800 Data Base Committee ("800 Committee"). In the event the Commission elects to adopt any definition of 800 and using subscribership at all, LDP urges the Commission to reject Allnet's proposed definition, which would undermine long standing Commission policies, including those related to 800 service, by stifling competition, crippling the resale of telecommunications services, reducing customer choice, and generally impairing network reliability.

As Allnet appropriately notes, the definitions of the 800 Guidelines drafted by the 800 Committee currently describe the 800 "customer" as either the "service subscriber" or an "800 service provider." Petition, pp. 11-12. Frequently, in the case of a reseller arrangement, the customer of record is the reseller itself, since only it has a business relationship with the underlying carrier. The underlying carrier looks to the reseller, not to the end user, for payment of all charges associated with tariffed or contract services, and coordinates solely with the reseller all routing, interconnection and other service arrangements. The end user, in many instances, is entirely ignorant of whose resold service it is leasing, or that it is leasing resold service at all; and is unaware of the technical configurations which support such offerings.

The business relationships between 800 service resellers and their customers also vary widely, due to the increased capabilities of the data base system. Resellers may assign

one or more 800 number to any given subscriber for its exclusive use or, alternatively, provide a regionalized, time of day or other customized service by which one 800 number may be shared by multiple users.<sup>1</sup> Each such end user may itself utilize the resold service of the same or different carriers, and relies on the reseller to coordinate such sharing arrangements. A unilateral decision by any one customer to switch 800 services, without clearance by the reseller, would necessarily disrupt and impair the services of remaining end users, potentially expose the reseller to legal action, and leave the reseller accountable to the departing customer's underlying carrier for all unpaid accounts. End users could avoid their financial obligations to resellers by simply switching carriers without notice, much less payment of current accounts.

Recognizing these marketplace realities, the 800 Committee, composed of local exchange carriers, interexchange carriers (including resellers and aggregators) and end user representatives, is currently addressing the complex technical and legal issues associated with the resale and aggregation of 800 services. Among the proposals under consideration for resolving the issue of which entities may

---

<sup>1</sup> Sharing arrangements, coupled with other value added services, are also currently offered by service bureaus. For example, a service bureau having the 1-800-FORD prefix may resell a combination of 800 services and value added offerings to Ford dealerships across the country, each of which could advertise the same 800 number. In such a scenario, the customer of record for the 800 number would not be the individual dealerships but the service bureau or the reseller.

request service routing changes is Allnet's own definition of "800 end using subscriber" contained in its Petition. See Attachment. LDP respectfully submits that the 800 Committee is the appropriate forum, in the first instance, for resolving these matters, and that the relief sought by Allnet before the Commission is, at best, premature. In the event the 800 Committee ultimately reject's Allnet's proposed definition, and the evils anticipated by Allnet come to pass, Allnet may seek relief from the Commission at that time.<sup>2</sup>

Whether it is the 800 Committee or the Commission which resolves the matters which Allnet has raised, however, LDP submits that the relief sought be Allnet is unduly discriminatory, anticompetitive and contrary to the public interest. For over 15 years, the Commission has emphasized the important public benefits to be achieved through the open resale and shared use of telecommunications services and consistently rejected efforts at facilities based carriers to stifle competition by resellers. Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), aff'd sub nom. AT&T v. FCC, 572 F.2d 17 (2nd Cir.), cert. denied, 439 U.S. 875 (1978), cited in MCI Telecommunications Corporation v. AT&T, 7 FCC Rcd 5096 (1992) (resale of 800 services). Allnet's self-serving definition of 800 end user subscribership, if adopted, would undermine those policies by arbitrarily excluding resellers and other non-facilities

---

<sup>2</sup> Conversely, in the event the 800 Committee adopts Allnet's proposed definition, LDP reserves the right to challenge that result at the Commission.

based 800 service providers. Facilities based carriers, such as Allnet, which derive economic benefit from the transmission of 800 services and whose conflicts vis-a-vis customers seeking to shift carriage would be comparable to those which Allnet ascribes to AT&T, would not be so excluded.<sup>3</sup>

If adopted, Allnet's definition would also seriously jeopardize existing customer arrangements and network reliability. As noted above, in those cases where a reseller uses more than one carrier to transport traffic on a given number, or where multiple users are assigned the same number, the only entity capable of processing orders, which both the end user and the underlying carrier recognize as the entity responsible for network configuration and payment to the underlying carrier is the reseller itself.<sup>4</sup> Allnet's Petition is an effort to permit end users to circumvent contractual relationships, as the facilities based carrier has no way of knowing what other users lease the number in

---

<sup>3</sup> Such resellers and providers would be excluded both because they receive "compensation...for the transmission, delivery or management of calls" and because they are not "regulated common carrier[s] whose network serves as the last physical point of connection(s) for all calls originated using an 800 number." Curiously, Allnet would not exclude itself and other facilities-based carriers from this definition although they, too, receive compensation for 800 number-related services.

<sup>4</sup> It is LDP's understanding that Allnet itself provides 800 service on a single number to multiple users through its residential 800 service. As noted above, Allnet's self-serving definition of 800 end user subscribership would permit Allnet itself to request carrier changes, but disqualify resellers.



question, what other carriers transport traffic, or whether the end user seeking conversion indeed has any contractual or other legal right to designate physical points of termination. Such unilateral actions would imperil service to remaining subscribers, while enabling departing customers to avoid payment of existing accounts. Such results fly in the face of public policy and should be rejected.

WHEREFORE, LDP respectfully urges the Commission to deny the relief sought in Allnet's Petition as set forth above, or, in the alternative, to adopt a definition of 800 end using subscribership which encompasses resellers and other non-facilities based 800 service providers.

Respectfully submitted,

THE LONG DISTANCE PARTNERSHIP, L.P.

By   
Eric Fishman

Its Attorney  
Sullivan & Worcester  
1025 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 775-8190

March 16, 1993

# CLC Ad Hoc 800 Database Committee Issue Identification Form

**ISSUE TITLE:** Clarification of 800 Service  
Entities

**ISSUE NUMBER:** 046  
**DATE SUBMITTED:** 02-23-93  
**LAST REVISION DATE:** 02-23-93  
**INITIAL CLOSURE DATE:**  
**FINAL CLOSURE DATE:**

## 1. ISSUE STATEMENT:

Clarification of the entity which controls the 800 number is necessary.

## 2. SUGGESTED RESOLUTION OR OUTPUT PRODUCT/SERVICE DESIRED:

Clarification of RESP ORG, Customer of Record, 800 Service Provider, 800 Service Subscriber, and End User Definitions is necessary.

## 3. OTHER IMPACTS:

## 4. ISSUE ORIGINATOR (CHAMPION):

**NAME:** David Greenhaus  
**COMPANY:** Long Distance North  
**ADDRESS:** 200 Church Street PO Box 967  
Burlington, VT 05402

**TELEPHONE NO.:** 802-458-0101  
**FAX NO.:** 802-860-5125

## 5. ISSUE STATUS:

02-23-93 This issue was accepted. Contributions were presented by AT&T, Allnet and Sprint. An action item was assigned to the Committee to review the contributions received and develop proposals for resolution.

## 6. RESOLUTION:

## VIII. NEW BUSINESS

### New Issues

An issue was presented by David Greenhaus of Long Distance North titled "Clarification of 800 Service Entities."

This issue was accepted as Issue 046. This issue will be discussed further under "NEW BUSINESS" on 2/24/93.

It was further discussed what changes may be required in the "Guidelines for 800 Database" to address this issue.

AT&T submitted a contribution for review as follows:

- 1) RESP ORG provides service to small IXC,  
IXC is customer of record;
- 2) IXC is transport company for 800 service provider,  
Service provider is customer of record for IXC;
- 3) End user purchases 800 service from 800 service  
provider,  
End-user is customer of record for 800 service  
provider.

Allnet offered a contribution that was contained in a petition filed with the FCC on February 17, 1993 as follows:

"An "800 end using subscriber" for an 800 number is the entity who 1) through contractual or other legal relationship it can be definitively determined that such entity has the exclusive and absolute legal right to designate the physical point(s) of termination for all calls dialed using that 800 number and 2) who receives no compensation of any kind for the transmission, delivery, or management of calls originated using that number. If no entity satisfies both conditions of the prior provision, then the regulated common carrier whose network serves as the last exclusive physical point of connection(s) for all calls originated using an 800 number shall be treated by these Guidelines as the 800 end using subscriber for that 800 number".

Sprint offered a contribution as follows:

### Principles

The 800 Service Subscriber controls the 800 Number.

The 800 Service Provider is an entity which holds itself out as offering 800 services.

### Action Item

It was agreed to have the participants review the contributions and develop proposals for resolution.

### Other

Dave Kraychik of Stentor stated that this was his first 800 meeting and praised the participants for their openness regarding discussion of the issues.

### VII. NEXT MEETING

The next meeting is scheduled for March 23-24, 1993 in Colorado Springs, Colorado, hosted by MCI. A proposed agenda was reviewed and approved.

The following meeting is scheduled for April 20-21, 1993 in Baltimore, Maryland, to be hosted by Bell Atlantic.

Copies of the March and April notices and the proposed agenda for March are included as Attachment XIII.

### IX. ADJOURNMENT

Copies of the action items and updated issue index/statements are included as Attachments XIV and XV respectively.

The meeting was adjusted at 3:15 PM CST.

Submitted by:

  
Harry Miller  
800 Secretary

Attachments	I	List of Participants
	II	Approved Agenda
	III	Approved Minutes from 1/11-13/93

**CERTIFICATE OF SERVICE**

I, Eric Fishman, hereby certify that on March 16, 1993 a copy of the foregoing Opposition to Emergency Petition for Declaratory Ruling or, In the Alternative, Rulemaking, was sent by first class United States mail, postage prepaid, to the following:

Roy L. Morris  
Deputy General Counsel  
Allnet Communication Services, Inc.  
1990 M Street, N.W., Suite 500  
Washington, D.C. 20036

Suzanne M. Tetreault  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20054

International Transcription Service  
2100 M Street, N.W., Suite 140  
Washington, D.C. 20037

  
\_\_\_\_\_  
Eric Fishman

**CERTIFICATE OF SERVICE**

I, Eric Fishman, hereby certify that on March 16, 1993 a copy of the foregoing Opposition to Emergency Petition for Declaratory Ruling or, In the Alternative, Rulemaking, was sent by first class United States mail, postage prepaid, to the following:

Roy L. Morris  
Deputy General Counsel  
Allnet Communication Services, Inc.  
1990 M Street, N.W., Suite 500  
Washington, D.C. 20036

Suzanne M. Tetreault  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20054

International Transcription Service  
2100 M Street, N.W., Suite 140  
Washington, D.C. 20037



---

Eric Fishman